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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,036	02/13/2002	John Joseph Mascavage III	020375-002100US	7402
20350	7590	10/31/2006	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				MAGUIRE, LINDSAY M
				ART UNIT      PAPER NUMBER
				3634

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/076,036	MASCAVAGE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Lindsay M. Maguire	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 June 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-22 and 24-27 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-22 and 24-27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 February 2002 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> .                                  | 6) <input type="checkbox"/> Other: _____                          |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :3/26/02, 3/11/03, 5/23/05, & 4/06/06.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statements filed March 26, 2002, May 23, 2005, and April 6, 2006 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information, of each Non-Patent Literature item cited. It has been placed in the application file, but the information referred to therein has not been considered.

### ***Abstract***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

#### ***Claim Objections***

Claim 3 is objected to because of the following informalities: the phrases "the determining step comprises a step of determining" in line 4 and "the changing step comprises a step of changing" in line 6, are considered grammatically awkward. Appropriate correction is required.

Claim 5 is objected to because of the following informalities: the use of the word "and" in line 4 implies that all of the items in the list are required. It is suggested that the word "and" be changed to --or--. Similar issues are present in line 5 of claim 8, line 6 of claim 11, line 4 of claim 17, and line 5 of claim 25. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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The elements, "a paper message" and "a wireless phone message" present in line 4 of claim 5, and line 4 of claim 17, is rejected under 112 second paragraph. Specifically, claim 5 depends from claim 4, which requires a message to be sent to the electronic address of the purchaser. "A paper message" and "a wireless phone message" fail to comply with the above requirements since neither is associated with the electronic address of a purchaser. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-22 and 24-27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,699,528 (Hogan '528).

Hogan '528 discloses a method for facilitating payment between a buyer and a seller with an online money transfer performed over a wide area network, the method comprising steps of: receiving login information relevant to a vending site, wherein the login information is associated with the seller (305); automatically determining listings at the vending site associated with the seller (314, 385); generating a plurality of snippets of HTML code for the listings, wherein each snippet includes a link (Figure 3); automatically inserting one of the plurality of snippets into each of the listings, wherein

activating the link points a web browser to a payment enabler that can transfer money from the buyer to the seller (Figure 4); determining the listing has changed (see Figure 4, the word "NONE" indicates that the listing has changed) changing a graphic indicated by the snippet, which is caused, at least in part, by the determining step (i.e. changing a monetary amount to the word "NONE"). Furthermore, Hogan '528 discloses that one of the plurality of snippets indicates a graphic associated with the snippet and information unique to the seller and a listing including the seller (i.e. the amount of money owed; see Figure 4); wherein the determining step comprises a step of determining the listing has matured (i.e. bill has been paid or is due), whereby the purchaser is fixed (see Figures 4 and 8B). Hogan '528 further includes the steps of determining one of the plurality of listings has matured (i.e. been paid or is due), whereby the buyer is fixed; automatically determining the electronic address of the purchaser, and automatically sending a message to the electronic address of the purchaser (see Figure 6; 610); automatically sending a message to the electronic address of the purchaser (Figure 6); wherein the message is an e-mail message (610); further comprising a step of determining a purchase price from the vending site (see Figure 4); wherein the message includes a snippet that points to the payment enabler and includes information relating to a listing associated with the snippet (see Abstract, lines 8-13); further comprising a step of determining from the vending site the e-mail address of the buyer (Figure 6).

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Hogan '528 also discloses a step of receiving selection of a button graphic for display by snippet (Figure 4); receiving authorization from the buyer to debit a money handler associated with the buyer (835); adding a credit in a stored value account of the seller as a result of the receiving authorization step (column 5, lines 1-15); further comprising a step of receiving a shipper selection (i.e. which bill is being paid) and a purchase price (i.e. how much of the bill is being paid); further comprising a step of receiving from the seller a message that is embedded in the plurality of snippets for display as part of each listing (i.e. the bill is ready to be paid; 817); further comprising a step of receiving login information relevant to a plurality of vending sites wherein the login information for each of the plurality of vending sites is associated with the seller (813).

### ***Conclusion***

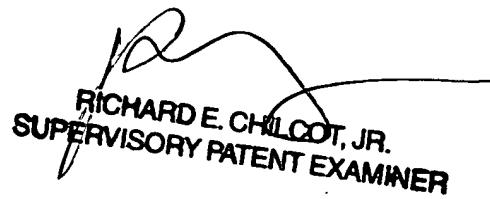
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lindsay M. Maguire whose telephone number is 571-272-6039. The examiner can normally be reached on M-F: 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lindsay M. Maguire  
10/26/06



RICHARD E. CHILCOT, JR.  
SUPERVISORY PATENT EXAMINER